

## REMARKS

This amendment responds to the Office Action mailed August 30, 2006. In the Office Action the Examiner:

- objected to claims 8-9 and 17-18 as being dependent upon a rejected base claim but allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims;
- rejected claims 1-7, 10-16 and 19-27 under 35 U.S.C. 102(b) as anticipated by Lower et al. (USP 5,613,971).

After entry of this amendment, claims 1-30 will be pending. Independent claims 1 and 10 have been amended to broaden their scope. The changes are not for purposes of patentability and should have no estoppel effect. New claims 27-30 have been added. No new matter has been added. Applicant appreciates the acknowledgment that claims 8-9 and 17-18 contain allowable subject matter.

### 35 U.S.C. § 102 Rejection Based Upon Lower et al.

Claims 1-7, 10-16 and 19-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lower et al. This rejection is respectfully traversed.

Independent claims 1 and 10 require a locking member moveable between a first position wherein the rod is axially slidable in the first channel and a second position wherein the rod is substantially prevented from axial sliding in the first channel, while independent claim 19 requires a locking member moveably associated with the shaft between a first position wherein the rod is axially slidable in the first channel and a second position wherein the rod is substantially prevented from axial sliding in the first channel. Lower et al. does not disclose a locking member moveable between a first position wherein the rod is axially slidable in the first channel and a second position wherein the rod is substantially prevented from axial sliding in the first channel. In Lower et al., the axial movement of the drill guide 22 is not dependent upon the position of a moveable lock member. The drill guide 22 in Lower et al. is always axially slidable by rotating the handle 26 so that the non-toothed surface of the drill guide 22 is adjacent the pawl 30. (Col. 3, lns. 19-27) Lower et al. works in a different manner than the device of claims 1, 10 or 19. Accordingly, Lower et al. does not have a second position for the locking member wherein the rod is substantially prevented from axial sliding in the first channel. For at least this reason, Lower et al. does not anticipate claims 1, 10 or 19 and the rejection of claims 1-7, 10-16 and 19-27 should be withdrawn.

Moreover, independent claims 1, 10 and 19 require a retaining member for retaining the locking member in the second position (wherein the rod is substantially prevented from

axially sliding in the channel). The Examiner refers to "the pawl (30)" as the retainer member, but pawl 30 is contained in bore 40 by removable spring stop 48. (col. 2, lns. 51-58). Pawl (30) does not retain a locking member in a position that substantially prevents the rod from axially sliding in the first channel. For at least this additional reason, independent claims 1, 10 and 19, as well as the dependent claims 2-9, 11-18 and 20-27 are not anticipated and the rejection based on Lower et al. should be withdrawn.

Independent claim 1 further recites a locking member having a second channel substantially aligned with the first channel. The Examiner states that Lower et al. discloses "a locking member, as best seen in FIG. 1, defining a second channel (40) substantially aligned with the first channel." However, the so-called second channel (40) in Lower et al. is not formed in a locking member but rather in body (12) (see Col. 2, lns. 51-58), and the second channel or bore (40) is not substantially aligned with the first channel (20) but rather is traverse to the first channel (20). For at least this additional reason, independent claim 1 is not anticipated by Lower et al.

In addition, the dependent claims recite further features and limitations not found in the prior art and are allowable for those additional reasons.

New claims 27-30 dependent upon independent claims 1, 10 and 19 respectively require the rod to have a threaded portion having screw threads wherein rotation of the rod when the lock member is in the second position moves the rod with respect to the first channel. Support is provided in the specification at least at page 7, lines 3-12 and at least FIGS. 4, 9, 11 and 13. This feature is not found in the Lower et al. reference.

In light of the above amendments and remarks, Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney if a telephone call could help resolve any remaining items.

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Respectfully submitted,



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